

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 233

## HOUSE BILL 2468

AN ACT

AMENDING SECTION 20-456, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-468; RELATING TO MOTOR VEHICLE INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-456, Arizona Revised Statutes, is amended to  
3 read:

4 20-456. Cease and desist order for defined or prohibited  
5 practices; civil penalty

6 A. If after a hearing the director finds that the person charged has  
7 engaged or is engaging in any act or practice defined in or prohibited under  
8 this article as an illegal or unfair method of competition or an unfair or  
9 deceptive act or practice, the director shall order the person to cease and  
10 desist from the proscribed acts or practices.

11 B. If the act or practice is a violation of section 20-443 through,  
12 20-443.01, 20-444, 20-445, 20-446, 20-447, 20-448, 20-448.01, 20-448.02,  
13 20-449, 20-451, 20-452 or 20-467 or a general business practice of committing  
14 or performing acts or omissions proscribed by section SECTIONS 20-461 AND  
15 20-468, the director may also impose a civil penalty of not more than one  
16 thousand dollars for each act or violation but not to exceed an aggregate  
17 penalty of ten thousand dollars unless the person intentionally violates any  
18 section enumerated in this subsection, in which case the director may impose  
19 a civil penalty of up to five thousand dollars for each act or violation but  
20 not to exceed an aggregate penalty of fifty thousand dollars in any six month  
21 period.

22 C. No order of the director pursuant to this section or order of A  
23 court to enforce it, or holding of a hearing, may in any manner relieve or  
24 absolve any person affected by the order or hearing from any other liability,  
25 penalty or forfeiture under law.

26 Sec. 2. Title 20, chapter 2, article 6, Arizona Revised Statutes, is  
27 amended by adding section 20-468, to read:

28 20-468. Policyholder choice of repair facility; conditions;  
29 cease and desist order; civil penalty

30 A. FOR REPAIR FACILITIES OTHER THAN GLASS REPAIR FACILITIES AND  
31 SUBJECT TO THE RIGHTS OF AN INSURER TO RECEIVE NOTICE OF LOSS OR CLAIM  
32 CONSISTENT WITH THE PROVISIONS OF ITS POLICY, A PERSON IN THIS STATE HAS THE  
33 RIGHT TO CHOOSE ANY REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE LOSS.  
34 IF AN INSURER PROVIDES INFORMATION ABOUT A REPAIR FACILITY, THE INSURER SHALL  
35 INFORM THE PERSON OF THIS RIGHT AT THE SAME TIME AS MAKING THE RECOMMENDATION  
36 OR PROVIDING THE INFORMATION. THIS SECTION DOES NOT CREATE A PRIVATE RIGHT  
37 OR CAUSE OF ACTION TO OR ON BEHALF OF ANY PERSON.

38 B. IF AN INSURED OR CLAIMANT SELECTS A REPAIR FACILITY TO REPAIR THE  
39 INSURED'S OR CLAIMANT'S MOTOR VEHICLE IN WHICH THE INSURER OWNS AN INTEREST  
40 IN THAT REPAIR FACILITY, THE ADJUSTER FOR THE MOTOR VEHICLE SHALL NOT BE  
41 EMPLOYED BY THE REPAIR FACILITY OR HAVE ANY DIRECT AUTHORITY OVER THAT  
42 FACILITY'S RECOMMENDATIONS OR DECISIONS RELATING TO THE REPAIR OF THE  
43 INSURED'S OR CLAIMANT'S MOTOR VEHICLE.

1       Sec. 3. Tied repair facility reports

2       A. Through January 10, 2008, a repair facility in which an insurer  
3 owns an interest in the repair facility and that engages in the business of  
4 repairing or replacing the nonmechanical exterior or interior body parts of  
5 a damaged motor vehicle, on or before the tenth day following each calendar  
6 year, shall file with the director of the department of insurance:

7       1. A statement delineating the number of motor vehicles repaired and  
8 the dollar values of those repairs by each such repair facility for the  
9 previous calendar year for which the motor vehicle owners were insured by or  
10 claimants of the insurer that owns an interest in the repair facility.

11       2. The total number of motor vehicles repaired and the dollar values  
12 by that repair facility that the motor vehicle owners were insured by or  
13 claimants of the insurer that owns an interest in the repair facility as a  
14 percentage of the total number of motor vehicles repaired or the total dollar  
15 values in that repair facility for that calendar year.

16       B. The department of insurance shall maintain the information received  
17 pursuant to subsection A of this section as confidential information. The  
18 department shall make this information available to the president of the  
19 senate or the speaker of the house of representatives upon request.

APPROVED BY THE GOVERNOR MAY 14, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2004.



Passed the House March 15, 2004

Passed the Senate April 26, 2004

by the following vote: 45 Ayes,

by the following vote: 30 Ayes,

12 Nays, 3 Not Voting

Jake Flake  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

0 Nays, 0 Not Voting

Robert Platter  
President of the Senate

Charmine Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

H.B. 2468

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 10, 2004,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Mike Flake  
Speaker of the House  
Spiman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10th day of May, 2004.

at 2:40 o'clock P. M.

Wendell P. Harris  
Secretary to the Governor

Approved this 14 day of

May, 2004,

at 1<sup>50</sup> o'clock P. M.

J. R. Norrell  
Governor of Arizona

H.B. 2468

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of May, 2004,

at 3:17 o'clock P. M.

James L. Brewster  
Secretary of State